

#1

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3874
OFFERED BY MR. CASTLE**

*passed
voice
vote*

Strike all after the enacting clause and insert the following:

1 SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Child Nutrition and WIC Reauthorization Amendments
4 of 1998”.

5 (b) TABLE OF CONTENTS.—The table of contents is
6 as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

TITLE I—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

Sec. 101. Provision of commodities.

Sec. 102. Nutritional and other program requirements.

Sec. 103. Special assistance.

Sec. 104. Miscellaneous provisions and definitions.

Sec. 105. Summer food service program for children.

Sec. 106. Commodity distribution program.

Sec. 107. Child and adult care food program.

Sec. 108. Meal supplements for children in afterschool care.

Sec. 109. Universal free breakfast pilot projects.

Sec. 110. Training and technical assistance.

Sec. 111. Compliance and accountability.

Sec. 112. Information clearinghouse.

Sec. 113. Accommodation of the special dietary needs of individuals with disabilities.

TITLE II—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

Sec. 201. State administrative expenses.

Sec. 202. Special supplemental nutrition program for women, infants, and children.

Sec. 203. Nutrition education and training program.

1 **SEC. 2. EFFECTIVE DATE.**

2 This Act, and the amendments made by this Act,
3 shall take effect on October 1, 1998, or the date of the
4 enactment of this Act, whichever occurs later.

5 **TITLE I—AMENDMENTS TO THE**
6 **NATIONAL SCHOOL LUNCH ACT**

7 **SEC. 101. PROVISION OF COMMODITIES.**

8 Section 6 of the National School Lunch Act (42
9 U.S.C. 1755) is amended—

10 (1) in subsection (b), by striking “authorized
11 under subsection (c)” and inserting “required under
12 subsections (c) and (e)”;

13 (2) by striking subsections (c) and (d); and

14 (3) by redesignating subsections (e), (f), and
15 (g) as subsections (c), (d), and (e), respectively.

16 **SEC. 102. NUTRITIONAL AND OTHER PROGRAM REQUIRE-**
17 **MENTS.**

18 (a) STATE OR LOCAL HEALTH AND SAFETY INSPEC-
19 TIONS.—Section 9 of the National School Lunch Act (42
20 U.S.C. 1758) is amended by adding at the end the follow-
21 ing:

22 “(h) If the food service operations of a school partici-
23 pating in the school lunch program under this Act or the
24 school breakfast program under section 4 of the Child Nu-
25 trition Act of 1966 (42 U.S.C. 1773) are not required by
26 State or local law to undergo health and safety inspec-

1 tions, then the school shall twice during each school year
2 obtain State or local health and safety inspections to en-
3 sure that meals provided under such programs are pre-
4 pared and served in a healthful and safe environment.”.

5 (b) SINGLE PERMANENT AGREEMENTS BETWEEN
6 STATE AGENCIES AND SCHOOL FOOD AUTHORITIES;
7 COMMON CLAIMING PROCEDURES.—Section 9 of such Act
8 (42 U.S.C. 1758), as amended by this Act, is further
9 amended by adding at the end the following:

10 “(i)(1) If a single State agency administers the school
11 lunch program under this Act, the school breakfast pro-
12 gram under section 4 of the Child Nutrition Act of 1966
13 (42 U.S.C. 1773), the summer food service program for
14 children under section 13 of this Act, or the child and
15 adult care food program under section 17 of this Act, then
16 such agency—

17 “(A) shall require each school food authority to
18 submit a single agreement with respect to the oper-
19 ation of such programs by such authority; and

20 “(B) shall require a common claiming proce-
21 dure with respect to meals and supplements served
22 under such programs.

23 “(2) The agreement described in paragraph (1)(A)
24 shall be a permanent agreement that may be amended as
25 necessary.”.

1 **SEC. 103. SPECIAL ASSISTANCE.**

2 Section 11(a)(3)(B) of the National School Lunch
3 Act (42 U.S.C. 1759a(a)(3)(B)) is amended in the third
4 sentence by striking "to the nearest one-fourth cent" and
5 all that follows through "shall be computed".

6 **SEC. 104. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

7 (a) **ADJUSTMENTS TO REIMBURSEMENT RATES FOR**
8 **CERTAIN STATES AND TERRITORIES.**—Section 12(f) of
9 the National School Lunch Act (42 U.S.C. 1760(f)) is
10 amended—

11 (1) by striking "school breakfasts and lunches"
12 and inserting "breakfasts, lunches, suppers, and
13 supplements";

14 (2) by striking "sections 4 and 11" and insert-
15 ing "sections 4, 11, 13, and 17"; and

16 (3) by striking "lunches and breakfasts" each
17 place it appears and inserting "meals".

18 (b) **BUY AMERICAN REQUIREMENT.**—Section 12 of
19 the National School Lunch Act (42 U.S.C. 1760) is
20 amended by adding at the end the following:

21 "(n) **BUY AMERICAN REQUIREMENT.**—For purposes
22 of providing meals under the school lunch program under
23 this Act or the school breakfast program under section 4
24 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the
25 Secretary shall require schools located in the contiguous

1 United States to purchase, to the extent practicable, only
2 food products that are produced in the United States.”.

3 **SEC. 105. SUMMER FOOD SERVICE PROGRAM FOR CHIL-**
4 **DREN.**

5 (a) **DEFINITION OF PRIVATE NONPROFIT ORGANIZA-**
6 **TIONS.**—Section 13(a)(7)(B) of the National School
7 Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended—

8 (1) in clause (i), to read as follows:

9 “(i) operate not more than 25 sites, with not
10 more than 300 children being served at any one site
11 (or, with a waiver granted by the State agency under
12 standards developed by the Secretary, not more than
13 500 children being served at any one site);”;

14 (2) by striking clauses (ii) and (iii); and

15 (3) by redesignating clauses (iv), (v), (vi), and
16 (vii) as clauses (ii), (iii), (iv), and (v), respectively.

17 (b) **OFFER VERSUS SERVE.**—Section 13(f)(7) of such
18 Act (42 U.S.C. 1761(f)(7)) is amended in the first sen-
19 tence by striking “attending a site on school premises op-
20 erated directly by the authority”.

21 (c) **FOOD SERVICE MANAGEMENT COMPANIES.**—

22 (1) **CONTRACTING FOR PROVISION OF MEALS**
23 **OR MANAGEMENT OF PROGRAM.**—Section 13(l)(1) of
24 such Act (42 U.S.C. 1761(l)(1)) is amended—

25 (A) in the first sentence—

1 (i) by striking “(other than private
2 nonprofit organizations eligible under sub-
3 section (a)(7))”; and

4 (ii) by striking “only with food service
5 management companies registered with the
6 State in which they operate” and inserting
7 “with food service management compa-
8 nies”; and

9 (B) by striking the last sentence.

10 (2) REGISTRATION.—Section 13(l)(2) of such
11 Act (42 U.S.C. 1761(l)(2)) is amended—

12 (A) in the first sentence of the matter pre-
13 ceding subparagraph (A), by striking “shall”
14 and inserting “may”; and

15 (B) by striking all after the first sentence.

16 (3) OTHER PROVISIONS.—Section 13(l) of such
17 Act (42 U.S.C. 1761(l)) is amended—

18 (A) by striking paragraph (3); and

19 (B) by redesignating paragraphs (4) and
20 (5) as paragraphs (3) and (4), respectively.

21 (d) REAUTHORIZATION OF PROGRAM.—Section 13(q)
22 of such Act (42 U.S.C. 1761(q)) is amended by striking
23 “1998” and inserting “2003”.

1 **SEC. 106. COMMODITY DISTRIBUTION PROGRAM.**

2 Section 14(a) of the National School Lunch Act (42
3 U.S.C. 1762a(a)) is amended in the matter preceding
4 paragraph (1) by striking "1998" and inserting "2003".

5 **SEC. 107. CHILD AND ADULT CARE FOOD PROGRAM.**

6 (a) **ELIGIBILITY OF INSTITUTIONS.**—Section
7 17(a)(1) of the National School Lunch Act (42 U.S.C.
8 1766(a)(1)) is amended to read as follows:

9 "(1) an institution (except a school or family or
10 group day care home sponsoring organization) or
11 family or group day care home—

12 "(A)(i) shall be licensed, or otherwise have
13 approval, by the appropriate Federal, State, or
14 local licensing authority; or

15 "(ii) shall be in compliance with appro-
16 priate procedures for renewing participation in
17 the program, as prescribed by the Secretary,
18 unless the State has information indicating that
19 the institution or family or group day care
20 home's license will not be renewed;

21 "(B) if Federal, State, or local licensing or
22 approval is not available—

23 "(i) shall meet any alternate approval
24 standards established by the appropriate
25 State or local governmental agency; or

1 “(ii) shall meet any alternate approval
2 standards established by the Secretary
3 after consultation with the Secretary of
4 Health and Human Services; or

5 “(C) if the institution provides care to
6 school children outside of school hours and Fed-
7 eral, State, or local licensing or approval is not
8 required for such institution, shall meet State
9 or local health and safety standards; and”.

10 (b) CATEGORICAL ELIGIBILITY FOR EVEN START
11 PROGRAM PARTICIPANTS.—Section 17(c)(6)(B) of such
12 Act (42 U.S.C. 1766(c)(6)(B)) is amended by striking
13 “1997” and inserting “2003”.

14 (c) TAX EXEMPT STATUS OF ELIGIBLE INSTITU-
15 TIONS; REMOVAL OF NOTIFICATION REQUIREMENT FOR
16 INCOMPLETE APPLICATIONS.—Section 17(d)(1) of such
17 Act (42 U.S.C. 1766(d)(1)) is amended—

18 (1) by inserting after the third sentence the fol-
19 lowing: “An institution moving toward compliance
20 with the requirement for tax exempt status shall be
21 allowed to participate in the program for a period of
22 not more than 6 months unless it can demonstrate
23 to the satisfaction of the State agency that its in-
24 ability to obtain tax exempt status within the 6-
25 month period is beyond the control of the institution

1 in which case the State agency may grant a single
2 extension not to exceed 90 days.”; and

3 (2) by striking the last sentence.

4 (d) USE OF FUNDS FOR AUDITS OF PARTICIPATING
5 INSTITUTIONS.—Section 17(i) of such Act (42 U.S.C.
6 1766(i)) is amended by striking “2 percent” and inserting
7 “1 percent”.

8 (e) PERMANENT AUTHORIZATION OF DEMONSTRATION
9 PROJECT.—Section 17(p) of such Act (42 U.S.C.
10 1766(p)) is amended by striking paragraphs (4) and (5).

11 (f) TRANSFER OF HOMELESS PROGRAMS.—

12 (1) IN GENERAL.—Section 17 of such Act (42
13 U.S.C. 1766) is amended by adding at the end the
14 following:

15 “(q) PARTICIPATION BY EMERGENCY SHELTERS.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, an emergency shelter shall
18 be eligible to participate in the program authorized
19 under this section in accordance with the terms and
20 conditions applicable to eligible institutions described
21 in subsection (a).

22 “(2) LICENSING REQUIREMENTS.—The licens-
23 ing requirements contained in subsection (a)(1) shall
24 not apply to emergency shelters or sites operated by
25 such shelters under the program.

1 “(3) ADDITIONAL REQUIREMENTS.—

2 “(A) HEALTH AND SAFETY STANDARDS.—

3 An emergency shelter and each site operated by
4 such shelter shall comply with State or local
5 health and safety standards.

6 “(B) MEAL REIMBURSEMENT.—

7 “(i) LIMITATION.—An emergency
8 shelter may claim reimbursement—

9 “(I) only for meals and supple-
10 ments served to children who have not
11 attained the age of 13 and who are
12 residing at an emergency shelter; and

13 “(II) for not more than 3 meals,
14 or 2 meals and a supplement, per
15 child per day.

16 “(ii) RATE.—A meal or supplement
17 eligible for reimbursement shall be reim-
18 bursed at the rate at which free meals and
19 supplements are reimbursed under sub-
20 section (c).

21 “(iii) NO CHARGE.—A meal or supple-
22 ment claimed for reimbursement shall be
23 served without charge.

24 “(4) DEFINITION OF EMERGENCY SHELTER.—

25 As used in this subsection, the term ‘emergency

1 shelter' has the meaning given such term in section
2 321(2) of the Stewart B. McKinney Homeless As-
3 sistance Act (42 U.S.C. 11351(2)).”.

4 (2) CONFORMING AMENDMENTS.—(A) Section
5 13(a)(3)(C) of such Act (42 U.S.C. 1761(a)(3)(C))
6 is amended—

7 (i) in clause (i), by adding “or” at the end;
8 (ii) by striking clause (ii); and
9 (iii) by redesignating clause (iii) as clause
10 (ii).

11 (B) Section 17B of such Act (42 U.S.C. 1766b)
12 is hereby repealed.

13 (g) PARTICIPATION BY “AT RISK” CHILD CARE PRO-
14 GRAMS.—Section 17 of such Act (42 U.S.C. 1766), as
15 amended by this Act, is further amended by adding at the
16 end the following:

17 “(r) ‘AT RISK’ CHILD CARE.—

18 “(1) IN GENERAL.—Subject to the conditions in
19 this subsection, institutions that provide care to at
20 risk school children during after-school hours, week-
21 ends, or holidays during the regular school year may
22 participate in the program authorized under this
23 section. Unless otherwise specified in this subsection,
24 all other provisions of this section shall apply to
25 these institutions.

1 “(2) AT RISK SCHOOL CHILDREN.—Children
2 ages 12 through 18 who live in a geographical area
3 served by a school enrolling elementary students in
4 which at least 50 percent of the total number of
5 children enrolled are certified eligible to receive free
6 or reduced price school meals under this Act or the
7 Child Nutrition Act of 1966 shall be considered at
8 risk.

9 “(3) SUPPLEMENT REIMBURSEMENT.—

10 “(A) LIMITATION.—Only supplements
11 served to at risk school children during after-
12 school hours, weekends, or holidays during the
13 regular school year may be claimed for reim-
14 bursement. Institutions may claim reimburse-
15 ment for only one supplement per child per day.

16 “(B) RATE.—Eligible supplements shall be
17 reimbursed at the rate for free supplements
18 under subsection (c)(3).

19 “(C) NO CHARGE.—All supplements
20 claimed for reimbursement shall be served with-
21 out charge.”.

22 **SEC. 108. MEAL SUPPLEMENTS FOR CHILDREN IN AFTER-**
23 **SCHOOL CARE.**

24 Section 17A of the National School Lunch Act (42
25 U.S.C. 1766a) is amended—

1 (1) in subsection (a)(2)(C) to read as follows:

2 “(C) operate afterschool programs with an
3 educational or enrichment purpose.”; and

4 (2) in subsection (b), by striking “served to
5 children” and all that follows and inserting “served
6 to children who are not more than 18 years of age.”.

7 **SEC. 109. UNIVERSAL FREE BREAKFAST PILOT PROJECTS.**

8 Section 18(i) of the National School Lunch Act (42
9 U.S.C. 1769(i)) is amended to read as follows:

10 “(i) UNIVERSAL FREE BREAKFAST PILOT
11 PROJECTS.—

12 “(1) IN GENERAL.—

13 “(A) GRANTS TO STATES.—(i) Subject to
14 the availability of advance appropriations under
15 paragraph (8), the Secretary shall make grants
16 to not more than 5 States to conduct pilot
17 projects in elementary schools under school food
18 authorities located in each such State—

19 “(I) to reduce paperwork;

20 “(II) to simplify meal counting re-
21 quirements; and

22 “(III) to make changes that will in-
23 crease participation in the school breakfast
24 program.

1 “(ii) The Secretary shall select States to
2 receive grants under clause (i), and make
3 grants to such States, in the first fiscal year for
4 which appropriations are made to carry out this
5 subsection.

6 “(B) GRANTS TO SCHOOL FOOD AUTHORI-
7 TIES; DURATION OF PILOT PROJECTS.—(i)(I) A
8 State receiving a grant under subparagraph (A)
9 shall make grants to school food authorities to
10 carry out the pilot projects described in such
11 subparagraph.

12 “(II) The State shall select school food au-
13 thorities to receive grants under clause (i), and
14 make grants to such authorities, in the first fis-
15 cal year for which the State receives amounts
16 under a grant.

17 “(ii) A school food authority receiving
18 amounts under a grant to conduct a pilot
19 project described in subparagraph (A) shall
20 conduct such project for the 3-year period be-
21 ginning in the first fiscal year in which the au-
22 thority receives amounts under a grant from
23 the State.

24 “(C) PARTICIPATION LIMITATION.—A
25 school food authority conducting a pilot project

1 under this paragraph shall ensure that some el-
2 ementary schools under such authority do not
3 participate in the pilot project.

4 “(2) WAIVER AUTHORITY.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the Secretary may waive the
7 requirements of this Act and the Child Nutri-
8 tion Act of 1966 (42 U.S.C. 1771 et seq.) relat-
9 ing to counting of meals, applications for eligi-
10 bility, and related requirements that would pre-
11 clude the Secretary from making a grant to
12 conduct a pilot project under paragraph (1).

13 “(B) NON-WAIVABLE REQUIREMENTS.—
14 The Secretary may not waive a requirement
15 under subparagraph (A) if the waiver would
16 prevent a program participant, a potential re-
17 cipient, or a school from receiving all of the
18 benefits and protections of this Act, the Child
19 Nutrition Act of 1966, or a Federal statute or
20 regulation that protects an individual constitu-
21 tional right or a statutory civil right.

22 “(3) REQUIREMENTS FOR PARTICIPATION IN
23 PILOT.—To be eligible to participate in a pilot
24 project under this subsection—

25 “(A) a State—

1 “(i) shall submit an application to the
2 Secretary at such time and in such manner
3 as the Secretary shall establish; and

4 “(ii) shall provide such information
5 relative to the operation and results of the
6 pilot as the Secretary may reasonably re-
7 quire; and

8 “(B) a school food authority—

9 “(i) shall agree to serve all breakfasts
10 at no charge to all children in participating
11 elementary schools;

12 “(ii) shall not have a history of viola-
13 tions of this Act or the Child Nutrition Act
14 of 1966 (42 U.S.C. 1771 et seq.); and

15 “(iii) shall meet any other require-
16 ment that the Secretary may reasonably
17 require.

18 “(4) SELECTION OF PILOT ELEMENTARY
19 SCHOOLS.—To the extent practicable, a State shall
20 select school food authorities to participate in the
21 pilot program under this subsection in a manner
22 that will provide for an equitable distribution among
23 the following types of elementary schools:

24 “(A) Urban and rural elementary schools.

1 “(B) Elementary schools of varying family
2 income levels.

3 “(5) REIMBURSEMENT RATES.—A school food
4 authority conducting a pilot project under this sub-
5 section shall receive reimbursement for each break-
6 fast served under the pilot in an amount equal to
7 the rate for free breakfasts established under section
8 4(b)(1)(B) of the Child Nutrition Act of 1966 (42
9 U.S.C. 1773(b)(1)(B)).

10 “(6) COMMODITY ENTITLEMENT.—A school
11 food authority conducting a pilot project under this
12 subsection shall receive commodities in the amount
13 of at least 5 cents per breakfast served under the
14 pilot. The value of such commodities shall be de-
15 ducted from the amount of cash reimbursement de-
16 scribed in paragraph (5).

17 “(7) EVALUATION OF PILOT PROJECT.—

18 “(A) IN GENERAL.—The Secretary, acting
19 through the Administrator of the Food and Nu-
20 trition Service, shall conduct an evaluation of
21 the pilot projects in each of the school food au-
22 thorities selected for participation. Such evalua-
23 tion shall include—

24 “(i) a determination of the effect of
25 participation in the pilot project on the

1 academic achievement, tardiness and at-
2 tendance, and dietary intake of participat-
3 ing children that is not attributable to
4 changes in educational policies and prac-
5 tices; and

6 “(ii) a determination of the effect that
7 participation by elementary schools in the
8 pilot projects has on the proportion of stu-
9 dents who eat breakfast.

10 “(B) REPORT.—Upon completion of the
11 pilot projects and the evaluation, the Secretary
12 shall submit to the Committee on Education
13 and the Workforce of the House of Representa-
14 tives and the Committee on Agriculture, Nutri-
15 tion, and Forestry of the Senate a report con-
16 taining the evaluation of the pilot required
17 under subparagraph (A).

18 “(8) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated such sums
20 as may be necessary to carry out this subsection.”.

21 • **SEC. 110. TRAINING AND TECHNICAL ASSISTANCE.**

22 Section 21(e)(1) of the National School Lunch Act
23 (42 U.S.C. 1769b-1(e)(1)) is amended by striking “1998”
24 and inserting “2003”.

1 • **SEC. 111. COMPLIANCE AND ACCOUNTABILITY.**

2 Section 22(d) of the National School Lunch Act (42
3 U.S.C. 1769c(d)) is amended by striking “1996” and in-
4 serting “2003”.

5 • **SEC. 112. INFORMATION CLEARINGHOUSE.**

6 (a) **AUTHORITY TO ESTABLISH AND MAINTAIN**
7 **CLEARINGHOUSE.**—Section 26(a) of the National School
8 Lunch Act (42 U.S.C. 1769g(a)) is amended by striking
9 “shall” and inserting “may”.

10 (b) **NONGOVERNMENTAL ORGANIZATION.**—Section
11 26(b) of such Act (42 U.S.C. 1769g(b)) is amended in
12 the matter preceding paragraph (1) by inserting after
13 “shall be selected on a competitive basis” the following:
14 “, except that, notwithstanding any other provision of law,
15 the Secretary may enter into a contract for the services
16 of any organization with which the Secretary has pre-
17 viously entered into a contract under this section without
18 such organization competing for such new contract, if such
19 organization has performed satisfactorily under such prior
20 contract and otherwise meets the criteria established in
21 this subsection,”.

22 (c) **LIMITATION ON AMOUNT PROVIDED UNDER THE**
23 **CONTRACT.**—Section 26 of such Act (42 U.S.C. 1769g)
24 is amended—

25 (1) by redesignating subsections (c) and (d) as
26 subsections (d) and (e), respectively; and

1 (2) by inserting after subsection (b) the follow-
2 ing:

3 “(c) LIMITATION ON AMOUNT PROVIDED UNDER
4 THE CONTRACT.—The Secretary may provide to the orga-
5 nization described in subsection (b) an amount not to ex-
6 ceed \$150,000 in each of fiscal years 1999 through
7 2003.”.

8 (d) FUNDING.—Section 26(e) of such Act (42 U.S.C.
9 1769g(e)) (as so redesignated) is amended to read as fol-
10 lows:

11 “(e) FUNDING.—

12 “(1) IN GENERAL.—There are authorized to be
13 appropriated \$150,000 for each of the fiscal years
14 1999 through 2003 to carry out this section.

15 “(2) REQUIREMENT.—No amounts may be pro-
16 vided for the clearinghouse under this section unless
17 specifically provided in appropriations Acts.”.

18 **SEC. 113. ACCOMMODATION OF THE SPECIAL DIETARY**
19 **NEEDS OF INDIVIDUALS WITH DISABILITIES.**

20 Section 27 of the National School Lunch Act (42
21 U.S.C. 1769h) is amended to read as follows:

22 **“SEC. 27. ACCOMMODATION OF THE SPECIAL DIETARY**
23 **NEEDS OF INDIVIDUALS WITH DISABILITIES.**

24 “(a) IN GENERAL.—The Secretary may carry out ac-
25 tivities to help accommodate the special dietary needs of

1 individuals with disabilities who are participating in a cov-
2 ered program. Such activities may include—

3 “(1) developing and disseminating to State
4 agencies guidance and technical assistance materials;

5 “(2) conducting training of State agencies and
6 eligible entities; and

7 “(3) providing grants to State agencies and eli-
8 gible entities.

9 “(b) DEFINITIONS.—As used in this section:

10 “(1) INDIVIDUALS WITH DISABILITIES.—The
11 term ‘individuals with disabilities’ has the meaning
12 given the term ‘individual with a disability’ as de-
13 fined in section 7(8) of the Rehabilitation Act of
14 1973 (29 U.S.C. 706(8)).

15 “(2) COVERED PROGRAM.—The term ‘covered
16 program’ means—

17 “(A) the school lunch program authorized
18 under this Act;

19 “(B) the school breakfast program author-
20 ized under section 4 of the Child Nutrition Act
21 of 1966 (42 U.S.C. 1773); and

22 “(C) any other program authorized under
23 this Act or the Child Nutrition Act of 1966 (ex-
24 cept for section 17) that the Secretary deter-
25 mines is appropriate.

1 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
2 tity’ means a school food authority, institution, or
3 service institution that participates in a covered pro-
4 gram.

5 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as may be
7 necessary for each of the fiscal years 1999 through 2003
8 to carry out this section.”.

9 **TITLE II—AMENDMENTS TO THE** 10 **CHILD NUTRITION ACT OF 1966**

11 **SEC. 201. STATE ADMINISTRATIVE EXPENSES.**

12 (a) REALLOCATION OF AMOUNTS.—Section
13 7(a)(5)(B) of the Child Nutrition Act of 1966 (42 U.S.C.
14 1776(a)(5)(B)) is amended—

15 (1) by striking “(i)”;

16 (2) by striking the second sentence and all that
17 follows; and

18 (3) by adding at the end the following: “The
19 Secretary shall then allocate, for purposes of admin-
20 istration costs, any remaining amounts among
21 States that demonstrate a need for such amounts.”.

22 (b) ELIMINATION OF 10 PERCENT TRANSFER LIM-
23 TATION.—Section 7(a)(6) of such Act (42 U.S.C.
24 1776(a)(6)) is amended to read as follows:

1 “(6) Funds available to States under this subsection
2 and under section 13(k)(1) of the National School Lunch
3 Act may be used by State agencies for the costs of admin-
4 istration of the programs authorized under this Act (ex-
5 cept for the programs authorized under sections 17 and
6 21) and the National School Lunch Act without regard
7 to the basis on which such funds were earned and allo-
8 cated.”.

9 (c) REAUTHORIZATION OF PROGRAM.—Section 7(g)
10 of such Act (42 U.S.C. 1776(g)) is amended by striking
11 “1998” and inserting “2003”.

12 **SEC. 202. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM**
13 **FOR WOMEN, INFANTS, AND CHILDREN.**

14 (a) **ADDITIONAL REQUIREMENTS FOR APPLI-**
15 **CANTS.—**

16 (1) **PHYSICAL PRESENCE REQUIREMENT.—**Sec-
17 tion 17(d)(3) of the Child Nutrition Act of 1966 (42
18 U.S.C. 1786(d)(3)) is amended by adding at the end
19 the following:

20 “(C)(i) Except as provided in clause (ii), each appli-
21 cant to the program shall be physically present at each
22 certification determination in order to determine eligibility
23 under the program.

24 “(ii) A local agency may waive the requirement of
25 clause (i)—

1 “(I) if required to do so by requirements under
2 the Americans with Disabilities Act; or

3 “(II) with respect to a child who was present at
4 the initial certification visit and who is receiving on-
5 going health care from a provider other than such
6 local agency, if the agency determines that the re-
7 quirement of clause (i) would present a barrier to
8 participation.”.

9 (2) INCOME DOCUMENTATION REQUIREMENT.—

10 Section 17(d)(3) of the Child Nutrition Act of 1966
11 (42 U.S.C. 1786(d)(3)), as amended by paragraph
12 (1), is further amended by adding at the end the fol-
13 lowing:

14 “(D)(i) Except as provided in clause (ii), in order to
15 be eligible for the program, each applicant to the program
16 shall provide—

17 “(I) documentation of household income; or

18 “(II) documentation of participation in a pro-
19 gram described in clauses (ii) and (iii) of paragraph
20 (2)(A).

21 “(ii)(I) A State agency may waive the requirement
22 of clause (i)—

23 “(aa) with respect to an applicant for whom the
24 necessary documentation is not available; or

1 “(bb) with respect to an applicant, such as
2 homeless women or children, for whom the agency
3 determines the requirement of clause (i) would
4 present a barrier to participation.

5 “(II) The Secretary shall prescribe regulations to
6 carry out division (aa).”.

7 ✓ (b) DISTRIBUTION OF NUTRITION EDUCATION MA-
8 TERIALS TO STATE AGENCIES ADMINISTERING THE COM-
9 MODITY SUPPLEMENTAL FOOD PROGRAM.—Section
10 17(e)(3) of such Act (42 U.S.C. 1786(e)(3)) is amended—

11 (1) by redesignating paragraphs (4) and (5) as
12 paragraphs (5) and (6), respectively; and

13 (2) by inserting after paragraph (3) the follow-
14 ing:

15 “(4) The Secretary may provide nutrition education
16 materials, including breastfeeding promotion materials,
17 developed with funds appropriated to carry out the pro-
18 gram under this section in bulk quantity to State agencies
19 administering the commodity supplemental food program
20 authorized under sections 4(a) and 5 of the Agriculture
21 and Consumer Protection Act of 1973 at no cost to that
22 program.”.

23 (c) REAUTHORIZATION OF PROGRAM.—Section
24 17(g)(1) of such Act (42 U.S.C. 1786(g)(1)) is amended

1 in the first sentence by striking “1995 through 1998” and
2 inserting “1999 through 2003”.

3 (d) PURCHASE OF BREAST PUMPS.—Section
4 17(h)(1)(C) of such Act (42 U.S.C. 1786(h)(1)(C)) is
5 amended—

6 (1) by striking “(C)” and inserting “(C)(i)”;
7 and

8 (2) by adding at the end the following:

9 “(ii)(I) Notwithstanding any other provision of this
10 section, with respect to fiscal year 2000 and subsequent
11 fiscal years, a State agency may use amounts made avail-
12 able under clause (i) for the purchase of breast pumps.

13 “(II) A State agency that exercises the authority of
14 subclause (I) shall expend from amounts allocated for nu-
15 trition services and administration an amount for the pur-
16 chase of breast pumps that is not less than the amount
17 expended for the purchase of breast pumps from amounts
18 available for nutrition services and administration for the
19 prior fiscal year.”.

20 (e) NUTRITION SERVICES AND ADMINISTRATION.—

21 (1) ALLOCATION OF AMOUNTS.—Section
22 17(h)(2)(A) of such Act (42 U.S.C. 1786(h)(2)(A))
23 is amended in the first sentence by striking “1995
24 through 1998” and inserting “1999 through 2003”.

1 (2) LEVEL OF PER PARTICIPANT EXPENDI-
2 TURE.—Section 17(h)(2)(B)(ii) of such Act (42
3 U.S.C. 1786(h)(2)(B)(ii)) is amended by striking
4 “15 percent” and inserting “10 percent (except that
5 the Secretary may establish a higher percentage for
6 small State agencies)”.

7 (f) CONVERSION OF AMOUNTS FOR FOOD BENEFITS
8 TO AMOUNTS FOR NUTRITION SERVICES AND ADMINIS-
9 TRATION.—Section 17(h)(5)(A) of such Act (42 U.S.C.
10 1786(h)(5)(A)) is amended in the matter preceding clause
11 (i) by striking “achieves” and all that follows through
12 “such State agency may” and inserting “submits a plan
13 to reduce average food costs per participant and to in-
14 crease participation above the level estimated for such
15 State agency, such State agency may, with the approval
16 of the Secretary,”.

17 (g) INFANT FORMULA PROCUREMENT.—Section
18 17(h)(8)(A) of such Act (42 U.S.C. 1786(h)(8)(A)) is
19 amended by adding at the end the following:

20 “(iii) A State agency using a competitive bidding sys-
21 tem for infant formula shall award contracts to the bidder
22 offering the lowest net price unless the State agency dem-
23 onstrates to the satisfaction of the Secretary that the
24 weighted average retail price for different brands of infant

1 formula in the State does not vary by more than five per-
2 cent.”.

3 (h) INFRASTRUCTURE AND BREASTFEEDING PRO-
4 MOTION/SUPPORT ACTIVITIES.—Section 17(h)(10)(A) of
5 such Act (42 U.S.C. 1786(h)(10)(A)) is amended by strik-
6 ing “For each of fiscal years 1995 through 1998,” and
7 inserting “For each fiscal year through 2003,”.

8 (i) CONSIDERATION OF PRICE LEVELS OF RETAIL
9 STORES FOR PARTICIPATION IN THE PROGRAM.—

10 (1) IN GENERAL.—Section 17(h) of such Act
11 (42 U.S.C. 1786(h)) is amended by adding at the
12 end the following:

13 “(11)(A) For the purpose of promoting efficiency and
14 to contain costs under the program, a State agency shall,
15 in selecting a retail store for participation in the program,
16 take into consideration the prices that the store charges
17 for foods under the program as compared to the prices
18 that other stores charge for such foods.

19 “(B) The State agency shall establish procedures to
20 insure that a retail store selected for participation in the
21 program does not subsequently raise prices to levels that
22 would otherwise make the store ineligible for selection in
23 the program.”.

24 (2) REGULATIONS.—Not later than March 1,
25 1999, the Secretary of Agriculture shall promulgate

1 final regulations to carry out section 17(h)(11)(A) of
2 the Child Nutrition Act of 1966 (42 U.S.C.
3 1786(h)(11)(A)), as added by paragraph (1).

4 (j) USE OF FUNDS IN PRECEDING AND SUBSEQUENT
5 FISCAL YEARS.—

6 (1) IN GENERAL.—Clauses (i) and (ii) of sec-
7 tion 17(i)(3)(A) of such Act (42 U.S.C.
8 1786(i)(3)(A)(i) and (ii)) are amended to read as
9 follows:

10 “(i) not more than 1 percent (except as pro-
11 vided in subparagraph (C)) of the amount of funds
12 allocated to a State agency under this section for
13 supplemental foods for a fiscal year, and not more
14 than 1 percent of the amount of funds allocated to
15 a State agency under this section for nutrition serv-
16 ices and administration for a fiscal year, may be ex-
17 pended by the State agency for allowable expenses
18 incurred under this section for supplemental foods
19 and nutrition services and administration, respec-
20 tively, during the preceding fiscal year; and

21 “(ii)(I) a State agency may expend, from
22 amounts allocated to the agency for nutrition serv-
23 ices and administration, an amount equal to not
24 more than 1 percent of the total amount of funds al-
25 located to the agency under this section for a fiscal

1 year for allowable expenses incurred under this sec-
2 tion for nutrition services and administration during
3 the subsequent fiscal year; and

4 “(II) with the prior approval of the Secretary,
5 a State agency may expend, from amounts allocated
6 to the agency for nutrition services and administra-
7 tion, an amount equal to not more than one-half of
8 1 percent of the total amount of funds allocated to
9 the agency under this section for a fiscal year for
10 the development of a management information sys-
11 tem, including an electronic benefit transfer system,
12 during the subsequent fiscal year.”.

13 (2) CONFORMING AMENDMENTS.—Section 17 of
14 such Act (42 U.S.C. 1786) is amended—

15 (A) in subsection (h)(10)(A) (as amended
16 by this Act), by inserting after “nutrition serv-
17 ices and administration funds” the following:
18 “and food benefit funds”; and

19 (B) in subsection (i)—

20 (i) by striking subparagraphs (C)
21 through (G); and

22 (ii) by redesignating subparagraph
23 (H) as subparagraph (C).

24 (k) FARMERS MARKET NUTRITION PROGRAM.—

1 (1) MATCHING FUND REQUIREMENT.—Section
2 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is
3 amended in both the first and second sentences by
4 striking “total” each place it appears and inserting
5 “administrative”.

6 (2) RANKING CRITERIA FOR STATE PLANS.—
7 Section 17(m)(6) of such Act (42 U.S.C.
8 1786(m)(6)) is amended—

9 (A) by striking subparagraph (F); and

10 (B) by redesignating subparagraph (G) as
11 subparagraph (F).

12 (3) REAUTHORIZATION OF PROGRAM.—Section
13 17(m)(9)(A) of such Act (42 U.S.C. 1786(m)(9)(A))
14 is amended by striking “1996 through 1998” and
15 inserting “1999 through 2003”.

16 (1) DISQUALIFICATION OF CERTAIN VENDORS.—

17 (1) IN GENERAL.—Section 17 of such Act (42
18 U.S.C. 1786) is amended by adding at the end the
19 following:

20 “(o) DISQUALIFICATION OF VENDORS CONVICTED OF
21 TRAFFICKING OR ILLEGAL SALES.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (5), the State agency shall permanently dis-
24 qualify a vendor convicted of trafficking in food in-
25 struments (including any voucher, draft, check, or

1 access device, including an electronic benefit transfer
2 card or personal identification number, issued in lieu
3 of a food instrument pursuant to the provisions of
4 this section), or selling firearms, ammunition, explo-
5 sives, or controlled substances (as defined in section
6 102 of the Controlled Substances Act) in exchange
7 for food instruments.

8 “(2) NOTICE OF DISQUALIFICATION.—The
9 State agency shall provide the vendor with notifica-
10 tion of the disqualification and shall make such dis-
11 qualification effective on the date of receipt of the
12 notice of disqualification.

13 “(3) PROHIBITION ON RECEIPT OF LOST REVE-
14 NUES.—A vendor shall not be entitled to receive any
15 compensation for revenues lost as a result of the dis-
16 qualification under this subsection.

17 “(4) HARDSHIP EXCEPTION IN LIEU OF DIS-
18 QUALIFICATION.—

19 “(A) IN GENERAL.— A State agency may
20 permit a vendor that would otherwise be dis-
21 qualified under paragraph (1) to continue to re-
22 deem food instruments or otherwise provide
23 supplemental foods to participants if the State
24 agency determines, in its sole discretion accord-
25 ing to criteria established by the Secretary, dis-

1 qualification of the vendor would cause hard-
2 ship to participants in the program authorized
3 under this section.

4 “(B) CIVIL MONEY PENALTY.—Whenever a
5 State agency authorizes a vendor that would
6 otherwise be disqualified to redeem food instru-
7 ments or provide supplemental foods in accord-
8 ance with subparagraph (A), the State agency
9 shall assess the vendor a civil money penalty in
10 lieu of a disqualification.

11 “(C) AMOUNT.— The State agency shall
12 determine the amount of the civil penalty ac-
13 cording to criteria established by the Sec-
14 retary.”.

15 (2) REGULATIONS.—

16 (A) IN GENERAL.—Not later than March
17 1, 1999, the Secretary of Agriculture shall pro-
18 mulgate final regulations to carry out section
19 17(o) of such Act (42 U.S.C. 1786(o)), as
20 added by paragraph (1).

21 (B) ADDITIONAL REQUIREMENT.—The
22 final regulations described in subparagraph (A)
23 shall include criteria for determining the
24 amount of civil money penalties in lieu of dis-

1 qualification and for making hardship deter-
2 minations under such section.

3 (m) STUDY AND REPORT BY ECONOMIC RESEARCH
4 SERVICE.—Section 17 of such Act (42 U.S.C. 1786). as
5 amended by this Act, is further amended by adding at the
6 end the following:

7 “(p) STUDY AND REPORT BY ECONOMIC RESEARCH
8 SERVICE.—

9 “(1) STUDY.—The Secretary, acting through
10 the Administrator of the Economic Research Service,
11 shall conduct a study on the effect of cost contain-
12 ment practices established by States under the pro-
13 gram for the selection of vendors and approved food
14 items (other than infant formula) on the following:

15 “(A) Program participation.

16 “(B) Access and availability of prescribed
17 foods.

18 “(C) Voucher redemption rates and actual
19 food selections by participants.

20 “(D) Participants on special diets or with
21 specific food allergies.

22 “(E) Participant use and satisfaction of
23 prescribed foods.

24 “(F) Achievement of positive health out-
25 comes.

1 “(G) Program costs.

2 “(2) REPORT.—Not later than 3 years after the
3 date of the enactment of the Child Nutrition and
4 WIC Reauthorization Amendments of 1998, the Ad-
5 ministrator shall submit to the Secretary of Agri-
6 culture, the Committee on Education and the
7 Workforce of the House of Representatives, and the
8 Committee on Agriculture, Nutrition, and Forestry
9 of the Senate a report containing the results of the
10 study conducted under paragraph (1).”.

11 (n) COLLECTION AND USE OF PENALTIES FROM
12 VENDOR AND RECIPIENT FRAUD AND ABUSE.—Section
13 17 of such Act (42 U.S.C. 1786), as amended by this Act,
14 is further amended by adding at the end the following:

15 “(q) USE OF PENALTIES FROM VENDOR AND RECIP-
16 IENT FRAUD AND ABUSE.—Amounts collected from pen-
17 alties from vendors and recipients relating to violations of
18 any provision of this section (including any regulation es-
19 tablished to carry out this section) for fraud and abuse
20 under the program may be used for nutrition services and
21 administration and food benefits only for the 1-year period
22 beginning on the date on which amounts under the penalty
23 are received.”.

24 (o) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIO-
25 LATIONS UNDER THE PROGRAM.—Section 17 of such Act

1 (42 U.S.C. 1786), as amended by this Act, is further
2 amended by adding at the end the following:

3 “(r) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIO-
4 LATIONS UNDER THE PROGRAM.—The maximum amount
5 of a fine with respect to the embezzlement, willful
6 misapplication, stealing, obtaining by fraud, or trafficking
7 in food instruments of funds, assets, or property that are
8 of a value of \$100 or more under the program shall be
9 \$25,000.”.

10 **SEC. 203. NUTRITION EDUCATION AND TRAINING PRO-**
11 **GRAM.**

12 Section 19(i) of the Child Nutrition Act of 1966 (42
13 U.S.C. 1788(i)) is amended—

14 (1) by striking paragraphs (1) and (2);

15 (2) by redesignating paragraphs (3), (4), and
16 (5) as paragraphs (1), (2), and (3), respectively; and

17 (3) in paragraph (1) (as redesignated)—

18 (A) in the paragraph heading, by striking
19 “1997 THROUGH 2002 ” and inserting “1999
20 THROUGH 2003”; and

21 (B) by amending subparagraph (A) to read
22 as follows:

23 “(A) IN GENERAL.—There are authorized
24 to be appropriated to carry out this section

- 1 such sums as are necessary for fiscal years
- 2 1999 through 2003.”.

June 4, 1998